

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

CURTIS SMITH, No. 42043,)	
MELVIN LEROY TYLER, No. 09670,)	
)	
Plaintiffs,)	
)	
v.)	No. 04-4075-CV-C-NKL
)	
BOB HOLDEN, et al.,)	
)	
Defendants.)	

ORDER

On January 23, 2007, the United States Magistrate Judge recommended that plaintiffs' motions seeking relief for alleged retaliation and harassment, and complaints regarding ventilation in the new Jefferson City Correctional Center be denied, without prejudice. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record¹, including the exceptions filed by plaintiffs and their motions to strike, for appointment of counsel, to amend to add class action claims of retaliation, for order to show cause, to vacate, and for hearing. The issues raised in plaintiffs' exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted. Plaintiffs' related motions are, therefore, denied.

Plaintiffs also filed motions seeking to disqualify the undersigned, Magistrate Judge William A. Knox, and all judges of the Western District of Missouri from this case. Plaintiffs' motions are not made in good faith. Plaintiffs' previous motions for recusal have been determined to be without merit, and the court finds there is no merit in plaintiffs' renewed motions. Plaintiffs' continued allegations that the court is biased and prejudiced against them, is

¹Court proceedings, if any, are recorded by electronic recording equipment and the tapes are available for review by the court and counsel.

openly allowing state agents to violate their rights and the rights of other prisoners seeking relief with the courts, and has assisted in covering up more than 100 federal crimes are unfounded. Plaintiffs have not set forth, in good faith, facts demonstrating a personal bias requiring disqualification under sections 144 or 455 of Title 28, United States Code. Plaintiffs' motions seeking disqualification and/or recusal are denied.

On January 17, 2007, an order was entered dismissing, on res judicata grounds, plaintiff Tyler's claims challenging rescission of his presumptive parole date in 1994 and denial of parole in prior years. In response, plaintiff has filed motions for reconsideration, for severance of the dismissed claims and a motion for leave to file the 2006 rules of the Missouri Board of Probation and Parole in support of these motions. Plaintiff seeks reconsideration under Fed. R. Civ. P. 59(e).

Plaintiff Tyler's motion for leave to file the 2006 rules of the Missouri Board of Probation and Parole will be granted; however, after consideration, plaintiff's motions for reconsideration and severance are denied.

IT IS, THEREFORE, ORDERED that plaintiff Tyler's motion for leave to file the 2006 rules of the Missouri Board of Probation and Parole is granted. [297] It is further

ORDERED that plaintiffs' motions for reconsideration and severance are denied. [291, 299, 306] It is further

ORDERED that plaintiffs' motions to disqualify judges are denied. [290, 295] It is further

ORDERED that plaintiffs' motions to strike, for appointment of counsel, to amend to add class action claims of retaliation and to reassert other claims they argue should remain a part of this case, to vacate, and for hearing are denied. [293, 301, 302, 310, 323, 326] It is further

ORDERED that plaintiffs' motion for leave to file out-of-time their exceptions is granted. [309] It is further

ORDERED that the Report and Recommendation of January 23, 2007, is adopted. [289] It is further

ORDERED that plaintiffs' motions seeking relief for alleged retaliation and harassment, and complaints regarding ventilation in the new Jefferson City Correctional Center are denied,

without prejudice [235, 238, 239, 246, 248, 249, 251, 254, 256, 257, 258, 260, 262, 265, 266, 269, 270, 272, 273, 276, 277, 278, 279, 281, 283, 284, 286, 287].

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: May 31, 2007
Jefferson City, Missouri